



# Arizona Department of Transportation

## Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007

Janet Napolitano  
Governor

Victor M. Mendez  
Director

January 10, 2008

Sam Elters  
State Engineer

TO: All Contractors interested in submitting bids for Arizona Department of Transportation Highway Construction Contracts

The Transportation Board considered three unbalanced low bids during the December 21, 2007 meeting. In each case the Department determined that the bids were not materially unbalanced and I did not recommend rejection of any of these bids.

These three bids raised concerns that a disturbing trend may be underway with regard to unbalanced bidding. Those concerns warrant this notice.

The Arizona Department of Transportation Standard Specifications Subsection 102.10 – Irregular Proposals, advises contractors that the Department may reject bids that are mathematically or materially unbalanced.

Section 101 of the Standard Specifications includes definitions of mathematically and materially unbalanced bids as follows:

A mathematically unbalanced bid is a bid containing lump sum or unit bid prices that do not reflect reasonably anticipated actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs.

A materially unbalanced bid is a bid that generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Department.

The intent of these provisions is to allow the Board to reject low bids in order to prevent detriment to the Department. In particular, if the low bid is materially unbalanced there is a strong presumption that the bid should be rejected. I will strongly recommend rejection of any bid that is materially unbalanced.

Unbalanced bids, whether mathematical or material, are potentially detrimental to the Department. If a bid is unbalanced and the quantities of work performed differ

significantly from the estimated quantities, the Department risks overpaying for the work. In addition, unbalancing can have a detrimental effect upon the competitive process, through bid protests and subsequent delay in contract award. An unbalanced bid places an unnecessary strain on contract administration and the partnering process throughout the course of construction. For these reasons, even if the unbalanced low bid is only mathematically unbalanced, I may recommend that it be rejected.

Additionally, a contractor may be tempted to unbalance a bid in the event that there are errors in bid schedule quantities or project plans. The Department strives to produce the best possible bidding documents. However, errors do occur occasionally. If a contractor takes advantage of such errors, the integrity of the bidding process is compromised. Effectively, the contractor is bidding a project based on documents that the Department did not intend to construct.

The Standard Specifications takes this possibility into account, and provides a remedy by specifying that bidders shall notify the Department if an error is discovered in the documents. Subsection 102.07 of the Standard Specifications states in part:

The bidder **shall** take no advantage of any apparent error or omission in the plans, bid schedule items, estimated quantities, specifications, or other contract documents. In the event the bidder discovers such an error or omission, the bidder **shall** immediately notify the Engineer. The Engineer will then make such corrections and interpretations as may be deemed necessary.

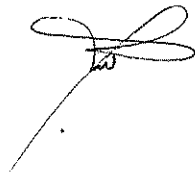
The Specifications advise bidders that submitting an unbalanced bid creates a risk of rejection of the bid. The Department wishes to ensure that there is a level playing field for all bidders. These specifications serve the best interests of the bidders and the Department. Unbalanced bids may violate the spirit and the letter of the specifications. For these reasons the Department will continue its critical review of all bids received. Unbalanced bids will be closely scrutinized and are subject to rejection by the Department.

As State Engineer, I will recommend that the State Transportation Board reject bids determined to be unbalanced to the detriment of the Department.

Sincerely,

Sam Elters

Sam Elters, P. E.  
State Engineer

A handwritten signature in black ink, appearing to read 'Sam Elters', with a long, sweeping horizontal line extending to the left.